

1 and 10/4? I don't think -- you -- I think you're going to say
2 no, that's not what I want you to do, Judge. But what --
3 which leaves me in a position of saying: how is it organized?

4 MR. HELEIN: Your Honor, if I could, I would like to
5 get you an accurate determination of that. My suspicion is is
6 that when we, we asked for -- or when we -- the client sup-
7 plied these to us there was an attempt made to put them in
8 some sort of chronological order so that when it moves from
9 October to, to March that there may obviously be telephone
10 logs for those months which are no longer available because of
11 the -- the records simply were lost or not kept, and these are
12 the ones --

13 JUDGE MILLER: Or are there --

14 MR. HELEIN: -- that he kept.

15 JUDGE MILLER: -- is there the possibility that
16 there was no -- there were no complaints on those logs and
17 therefore not --

18 MR. HELEIN: No.

19 JUDGE MILLER: -- that's --

20 MR. HELEIN: No, Your Honor.

21 JUDGE MILLER: -- not needed to --

22 MR. HELEIN: No. In fact, it was in response to Ms.
23 Woolf's earlier point about the, the relevancy of certain
24 documents. I mean, my response was going to be, and I think
25 you've already addressed it, but I'll just put it on the

1 record for this purpose. We're caught sort of between a rock
2 and a hard place to the extent we wouldn't intentionally leave
3 out any records on the basis we, we chose to think they were
4 not relevant. We would be subject to an objection that we
5 were not being forthcoming. So, we err on the side of trying
6 to be more inclusive rather than exclusive. And I think what
7 we're saying is to the extent that we have telephone log
8 records of Mr. Bader relevant to this case in terms of some of
9 them recording or many of them recording conversations with
10 Pacific Bell people concerning the problems, we have produced
11 what we have. I will be very happy to determine whether or
12 not we have produced those and given them to you in a fashion
13 that is somewhat out of kilter and correct that immediately.
14 But if they are what I think they are, rather, the available
15 records that we have on a month basis, they are put in the
16 chronological order on that basis and the other ones are
17 simply missing. We do not have them.

18 JUDGE MILLER: Well, I'm -- I -- let me say this.
19 From the Bench's viewpoint, I'm, I'm, I'm in the opposite camp
20 from Ms. Woolf. She wants, she wants deletions made. I
21 don't. I want to be sure that I have everything.

22 MR. HELEIN: And I would suggest that that would be
23 the case, because I could see us making a determination on our
24 part that something was not relevant and taking it out, and
25 then we can argue quite frequently either that you thought it

1 was or they thought it was and we'd be in a constant hassle.
2 It seems to me that the most efficient way to proceed is just
3 to leave these as submitted with the clarifications that I've
4 indicated I will, I will obtain for you -- for the Court and
5 for Pac Bell.

6 JUDGE MILLER: Well, let me -- let, let me ba--
7 let's back up again and let's, let's go to page -- first of
8 all, I'll take you to page 77. And I see in the upper left-
9 hand corner there 1988.

10 MR. HELEIN: Yes, Your Honor.

11 JUDGE MILLER: Now, should I be drawing the conclu-
12 sion that that 10/14 or 10/17, 10/18 entries are all 1988
13 entries?

14 MR. HELEIN: I will get confirmation, but my own
15 quick review of this is that there are some dates '85 and '86
16 in the early pages of this and there's also a mention of Ken
17 Korba, which we know for a fact was the earlier account execu-
18 tive. So, I believe that these are in year date chronology
19 with pages and months missing only because they either are not
20 available, that is, we do not have them anymore -- well, I, I
21 would assume that that's the only reason because certainly Mr.
22 Bader would not have failed to give us any other documentation
23 that he had which would have documented the further calls with
24 Pac Bell concerning his problems.

25 JUDGE MILLER: Well, having established in my, my --

1 let's say if I can go ahead with the conclusion that 1988 --
2 that, that 1988 reference on page 77 is in fact a reference --
3 I don't -- well, I'd like to know who wrote it too -- a refer-
4 ence to 1988 entries. You follow me?

5 MR. HELEIN: Yes, Your Honor.

6 JUDGE MILLER: Then I go back -- I'll go back to
7 page 58, and there I see a 2/11 and a 2/12, which -- and from
8 that 2/11 and 2/12 it moves forward through the months to this
9 10, to the entry on 77. Do you follow me?

10 MR. HELEIN: Yes, Your Honor.

11 JUDGE MILLER: Now, should I then assume that start-
12 ing on page 58 -- and then the reason I started on 58 because
13 -- or 57, 2/8, the-- and the next one at 56 is 12/11. Now,
14 should I assume that that 12/11 is '87?

15 MR. HELEIN: Your Honor, my best read of this is
16 that yes, you should, but I would like to have the opportunity
17 to confirm that and give you an accurate -- totally accurate
18 confirmation. But I would read it the way you are reading it.

19 JUDGE MILLER: All right. Because I -- you know, I
20 have, I have no, no problems with this being placed in evi-
21 dence, but I want everybody to be playing with the same ground
22 rules when they look at this, and, and I want the ground rules
23 laid out specifically. Well, what is '88? What is '87? What
24 is '86? Or what is beyond 2-- 2/12 -- 2/14. I mean, the
25 statute of limitations date, what, what -- we've got, we've

1 got reasons to need preciseness.

2 MR. HELEIN: All right.

3 JUDGE MILLER: And, and, and let, let, let me be
4 frank with you. I'm not, I'm not a trial attorney anymore,
5 Mr. Helein. But if I ever got an exhibit like this, I'd run,
6 I'd run back to that Exhibit B that's attached to your
7 Complaint so quick it'd make your head swim and start to look
8 to see how these ent-- these jibe with the information that is
9 contained in that exhibit. But, like I said, I'm not a trial
10 attorney. Ms. Woolf?

11 MS. WOOLF: I would like to, to imp-- interpose
12 another objection, which may be already cured, and that is
13 that I would like to see the originals of these. Number one,
14 since some of this is just illegible because of the copying,
15 and also just to examine it for authenticity purposes. It --
16 is the original of this contained in the binders that have
17 been submitted?

18 MR. WAYS DORF: No.

19 JUDGE MILLER: Where are the originals?

20 MR. HELEIN: One of the other associates I think was
21 gathering this material from Mr. Bader, and so I don't know if
22 he sent us the originals or only sent us copies. We will be
23 very happy to obtain originals.

24 JUDGE MILLER: I, I, I, I would like them because
25 I'd like to see them myself.

1 MR. HELEIN: That would be fine. I assume that we
2 would also be able to obtain originals from Pacific Bell on
3 any documentation for the same reasons.

4 JUDGE MILLER: What, what, what are -- Mr. Helein,
5 what are you saying?

6 MR. HELEIN: Well, simply that, for example, there
7 are some notes ascribed to Dennis Wheatley that are obliterated
8 by xeroxing in various portions that we have never seen
9 the originals on. And I think we have the same interest, that
10 we would like to see the originals of those notes so that we
11 can be assured that we have them all and also that we have all
12 the writings clearly identified on each, each page.

13 JUDGE MILLER: All right. And I think -- I'm going
14 to reserve ruling on, on, on, on Exhibit 12. Again, we're
15 going to get it out of the way before the end of this Session.
16 But I would suggest that when you people are raising questions
17 about originals -- and I, of course, would, would -- I want
18 to, I want to take a look at them because I want to be sure
19 that, that all of these entries and like -- the, the, the 1/19
20 entry, for example, on page 43 was made on 1/19 and, and the
21 1/20 entry was made on 1/20, just to satisfy ourselves while
22 we, while we get this thing organized. So, with that, I'll
23 reserve the ruling on, on 12 and you be able to give me some
24 answers, Mr. Helein, about these dates, et cetera, and including
25 who, who put 1988 on the -- on that very first page,

1 because that doesn't jibe with what -- with my concept of
2 these. The, the one back later on, the ni-- that 1988 later
3 on, that, that jells with what, with what I think you people
4 might have put together.

5 MR. HELEIN: Yes, Your Honor. We'll be very happy
6 to do that.

7 JUDGE MILLER: And, and, and I want -- and I'm, I'm
8 going to go ahead under the assumption that these are, these
9 are entries, not only in his telephone, you know, his tele-
10 phone notes, but they are his.

11 MR. HELEIN: Absolutely, Your Honor.

12 JUDGE MILLER: They're not somebody else's.

13 MR. HELEIN: Absolutely, Your Honor.

14 JUDGE MILLER: For example, on TMC Exhibit 27, Mr.
15 Helein, an entry with 5/2. Do you see that?

16 MR. HELEIN: You're still on Exhibit 12, Your Honor?

17 JUDGE MILLER: Yep. Page 27.

18 MR. HELEIN: Page 27. Yes, Your Honor, I have the
19 page.

20 JUDGE MILLER: I want to be sure that the person who
21 made that entry, 5/2, at least I'm going to go ahead and
22 assume it was, was Mr. Bader, is the same person that made,
23 for example, the entry on page 7, TMC Exhibit 12. Because if
24 they are his telephone, they are his telephone records, I
25 think they, they have probative value in this case, if only to

1 add continuity and coherence to his own, to his own testimony.

2 Now, if you -- I think you stand appraised, Ms.
3 Woolf, that Wheatley's notes, if there are -- if you, if
4 you're in the possession of originals, then to have them in
5 the courtroom too. Okay?

6 MS. WOOLF: I understand.

7 JUDGE MILLER: Now, I know this is way in advance of
8 your case, but we might as well get started on you.

9 I reserve ruling on, on 12. So, 10 and 12 I've re-
10 served rulings on. Proceed.

11 MR. WAYSORF: Your Honor, next we'd like marked for
12 identification as TMC Exhibit 13 a two-page letter --

13 JUDGE MILLER: You've -- you -- and she -- Julia,
14 Julia Waysdorf has been appraised of my problem with this one.
15 Right?

16 MR. HELEIN: She will be, yes.

17 JUDGE MILLER: What, 13?

18 MR. HELEIN: Oh, I'm sorry.

19 JUDGE MILLER: She already is.

20 MR. HELEIN: Oh, excuse me.

21 JUDGE MILLER: You know what the problem is with,
22 with 13, don't you, Mr. Waysdorf?

23 MR. WAYSORF: Is it that Deborah Harp isn't being
24 called?

25 JUDGE MILLER: No.

1 MR. WAYSDORF: Then I'm not aware of --

2 JUDGE MILLER: It, it, it is, it is that TMC Exhibit
3 13 in the Index of Exhibits indicates that it's a letter from
4 Dennis Wheatley --

5 MR. WAYSDORF: Oh, yes. That I am a--

6 JUDGE MILLER: -- to Stephen Bader.

7 MR. WAYSDORF: Yeah, I, I'm a--

8 JUDGE MILLER: And it's not a letter from --

9 MR. WAYSDORF: Dennis Wheatley, yes. No, I -- so,
10 I --

11 JUDGE MILLER: From Wheatley to Stephen Bader.

12 MR. WAYSDORF: It's -- there's -- it's a point that
13 I haven't gotten to yet, but we have --

14 JUDGE MILLER: Well, the, the next question --
15 you're, you're way ahead of me.

16 MR. WAYSDORF: Yeah. No, I, I was aware of that as
17 well. We have corrected the Index of Exhibits and have for
18 distribution to the Parties corrected copies of the Index of
19 Exhibits, which will properly list this as a letter from
20 Deborah Harp to Stephen Bader. There were a couple of other
21 very minor corrections in the index. It doesn't change the
22 exhibits. It changes only the index, and I have new copies,
23 multiple copies, of the new exhibits for distribution to --

24 JUDGE MILLER: All right.

25 MR. WAYSDORF: -- the Parties.

1 JUDGE MILLER: All right. That's --
2 MR. WAYS DORF: Would you like me to do it now or
3 later? It's --
4 JUDGE MILLER: I'm not, I'm not worried about that.
5 I --
6 MR. WAYS DORF: Right.
7 JUDGE MILLER: But, but what I'm worried about was,
8 was did you intend to -- and you mentioned it by saying the,
9 the letter stays as Deborah Harp to --
10 MR. WAYS DORF: Correct. The --
11 JUDGE MILLER: -- to, to Stephen Bader.
12 MR. WAYS DORF: The rea-- the exhibit was correct.
13 JUDGE MILLER: Okay.
14 MR. WAYS DORF: This was the intended exhibit.
15 JUDGE MILLER: Okay. And the doc--
16 MR. WAYS DORF: It was just mislabelled in the index.
17 JUDGE MILLER: It's two pages, no declaration --
18 MR. WAYS DORF: Yes.
19 JUDGE MILLER: -- and it'll be identified as TMC
20 Exhibit 13.
21 (Whereupon, the document
22 referred to as TMC Exhibit
23 No. 13 was marked for
24 identification.)
25 MR. WAYS DORF: Correct.

1 JUDGE MILLER: Knowing that there's going to be a
2 correction to the Index of Exhibits to make it conform to the
3 names appearing on the document itself, Ms. Woolf, do you have
4 any objections?

5 MS. WOOLF: No.

6 JUDGE MILLER: Now, we'll get to the 64-dollar-
7 question, Mr. -- do you intend to make Deborah Harp available?

8 MR. WAYSDORF: No, Your Honor. This is a, a docu-
9 ment that was an official correspondence received from Pacific
10 Bell. Mr. Bader was intending to sponsor it as --

11 JUDGE MILLER: Okay. Well, the -- this -- he's the,
12 he's the recipient of the letter, right?

13 MR. WAYSDORF: Correct, Your Honor.

14 JUDGE MILLER: So, he's the sponsor?

15 MR. WAYSDORF: Yes.

16 JUDGE MILLER: If there's any problems, that's who
17 we, that's who we go to?

18 MR. WAYSDORF: That's correct, Your Honor.

19 JUDGE MILLER: TMC Exhibit 13 is received.

20 (Whereupon, the document marked
21 for identification as TMC
22 Exhibit No. 13 was received into
23 evidence.)

24 JUDGE MILLER: Now, are we starting Volume 2?

25 MR. WAYSDORF: Yes.

1 JUDGE MILLER: Oh, we were already in Volume 2.

2 MR. WAYSDORF: Yeah. That's -- my Volume 2 had two
3 -- had 13 already. I'm sorry. My Volume 1 had 13. I don't
4 know.

5 TMC Exhibit 14 I'd like marked for identification.
6 It's a one-page letter from Dennis Wheatley to Stephen Bader.

7 JUDGE MILLER: The document you've just described
8 will be marked for identification as TMC Exhibit 14.

9 (Whereupon, the document
10 referred to as TMC Exhibit
11 No. 14 was marked for
12 identification.)

13 JUDGE MILLER: Offer into evidence?

14 MR. WAYSDORF: Yes, sir. I would like to offer it
15 in evidence. I, I'll note that we were intending to have it
16 sponsored by Mr. Bader since he is discussing it. In addi-
17 tion, it is also signed by Mr. Wheatley, who we're also pre-
18 senting as a witness, as well as Pac Bell is presenting him as
19 a witness. So, I guess there's multiple sponsors.

20 JUDGE MILLER: All right. Now, when you say that
21 Ba-- insofar as Bader's the sponsor, is it referred to in
22 his --

23 MR. WAYSDORF: Yes. That, that's what I meant. It
24 is referred to in his testimony.

25 JUDGE MILLER: It is in his TMC Exhibit --

1 MR. WAYS DORF: Right.
2 JUDGE MILLER: -- 1?
3 MR. WAYS DORF: And he would be coming before --
4 JUDGE MILLER: I understand.
5 MR. WAYS DORF: -- Mr., Mr. Wheatley in --
6 JUDGE MILLER: I understand.
7 MR. WAYS DORF: -- appearance.
8 JUDGE MILLER: Any objection, Ms. --
9 MS. WOOLF: No.
10 JUDGE MILLER: TMC Exhibit 14 is received.
11 (Whereupon, the document marked
12 for identification as TMC Ex-
13 hibit No. 14 was received into
14 evidence.)
15 MR. WAYS DORF: Next, I would like marked for iden-
16 tification as TMC Exhibit 15 a 20-page document which has been
17 identified of han-- as handwritten notes of Dennis Wheatley.
18 These notes are also -- they are excerpts of these notes that
19 are, just for information, part of Pac Bell Exhibit 7.
20 JUDGE MILLER: Right.
21 MR. WAYS DORF: These notes were --
22 JUDGE MILLER: That's par-- that's a partial dupli-
23 cation. Right?
24 MR. WAYS DORF: That's exactly right. This is the
25 complete notes that we were -- that we received as part of an

1 | interrogatory response and supplemental interrogatory response
2 | of, of September 8, 1989, and March 9, 1990.

3 | JUDGE MILLER: Sponsor, Dennis Wheatley?

4 | MR. WAYSDORF: I would say yes, sponsored -- it's
5 | discussed in Mr. Bader's testimony, but these are his notes
6 | and I think it's -- we'll leave it for technically sponsorship
7 | by Mr. Wheatley.

8 | JUDGE MILLER: Document you just described will be
9 | marked for identification as TMC Exhibit 15.

10 | (Whereupon, the document
11 | referred to as TMC Exhibit
12 | No. 15 was marked for
13 | identification.)

14 | JUDGE MILLER: Offer it in evidence?

15 | MR. WAYSDORF: Offer it, please.

16 | JUDGE MILLER: Ms. Woolf?

17 | MS. WOOLF: My only objection based on what we've
18 | just said is on page 17 of Exhibit 15.

19 | JUDGE MILLER: Wait a minute. Page 17? Okay.

20 | MS. WOOLF: Which were not written by Dennis
21 | Wheatley. It was written by Bill Rice, whose name appears at
22 | the bottom.

23 | JUDGE MILLER: Wait a minute. Page 17?

24 | MS. WOOLF: Yes. Hand-- they are typewritten notes.

25 | JUDGE MILLER: I can't find -- what, it's Bill Weiss?

1 MS. WOOLF: Bill Rice. His name appears at the
2 bottom. That --

3 MR. WAYS DORF: Very -- it's hard to read.

4 MS. WOOLF: Copy quality. It's right next to the
5 confidential stamp. It says Bill Rice, and then it gives a
6 date.

7 MR. HELEIN: These are notes, Your Honor, to -- we'd
8 like to have originals be-- precisely because of that problem,
9 because our copy is obliterated as well.

10 MR. WAYS DORF: It's my understanding that this was
11 shoved in there, the copy we received.

12 MS. WOOLF: Well, I think -- I, I don't have objec-
13 tion to it. What I'm just saying is that in terms of
14 sponsoring by --

15 MR. HELEIN: Yeah. We --

16 MS. WOOLF: -- Dennis Wheatley, that this one page
17 was not Dennis Wheatley --

18 JUDGE MILLER: In other words, would it be fair to,
19 to, to, to -- for me to approach Wheatley and say, hey, here's
20 TMC Exhibit 15, which is your notes, and I'm going to refer
21 you to page 17, and, and he says I've never seen it before in
22 my life. I don't know what he's going to say, but, but -- I
23 think you, you -- Wheatley could sponsor the first 16 pages,
24 but who's -- is -- if we get to 17, page 17, maybe we'd better
25 go back to Steve Bader.

1 MR. WAYSDORF: Well, that's -- it's --

2 JUDGE MILLER: If you read up at the top --

3 MR. WAYSDORF: Right.

4 JUDGE MILLER: -- notes for meeting with Steve
5 Bader. And I'm not -- in other words, I'm not anxious to get
6 -- to, to, to add another witness to the, to the, the list.
7 But --

8 MR. HELEIN: The, the meeting was attended, Your
9 Honor, by Sue Galaway and I believe Dennis Wheatley, and I
10 believe I recall asking Sue Galaway if she would be a sponsor-
11 ing witness with respect to this as well.

12 JUDGE MILLER: All right.

13 MR. WAYSDORF: I guess -- well, it probably is
14 appropriate to pull this out of here.

15 JUDGE MILLER: Don't do it.

16 MR. WAYSDORF: Yeah.

17 MR. HELEIN: Right. It, it was --

18 MR. WAYSDORF: I mean, it, it seems to have been
19 associated with this --

20 JUDGE MILLER: Well, well, no, I'm -- I mean, I mean
21 I'm going to, I'm going to accept this into evidence, even
22 under the, the, the title of "Handwritten Notes of Dennis
23 Wheatley" as long as it's understood on this record that, that
24 Sue Galaway, Steve Bader, are also -- should have some first-
25 hand knowledge of page 17.

1 MR. WAYSDORF: That's correct.

2 JUDGE MILLER: With that, you have any objections to
3 Exhibit 15? Any other, other comments?

4 MS. WOOLF: No.

5 JUDGE MILLER: Exhibit 15 is received.

6 (Whereupon, the document marked
7 for identification as TMC
8 Exhibit No. 15 was received into
9 evidence.)

10 MR. WAYSDORF: Next, I would like marked for iden-
11 tification as TMC Exhibit 16 a seven-page document which is
12 the -- Pac Bell's Routing Policy for IEC Equal Access Trunk
13 Groups. And it's -- this is discussed in Mr. Bader's and Mr.
14 Ritchey's testimony. It was submitted by Pac Bell and -- to
15 TMC's counsel in discovery and I note that we've also called
16 the three -- all three of the people listed as the -- from --

17 JUDGE MILLER: Cox, Lucky --

18 MR. WAYSDORF: Cox, Lucky --

19 JUDGE MILLER: -- and Bandler?

20 MR. WAYSDORF: -- and Bandler as adverse witnesses.

21 JUDGE MILLER: All right. The document you've just
22 described will be marked for identification, the seven-page
23 document you've just -- that will be marked for identification
24 as TMC Exhibit 16.

25 (Whereupon, the document

1 referred to as TMC Exhibit
2 No. 16 was marked for
3 identification.)

4 JUDGE MILLER: And do you offer it in evidence?

5 MR. WAYS DORF: Yes, sir.

6 JUDGE MILLER: Ms. Woolf?

7 MS. WOOLF: I object, I object on the basis of
8 relevance, on the statute of limitations grounds. This was a
9 September 23, 1985, policy which was two years prior to the --
10 what I believe to be the relevant time period of this
11 Complaint.

12 JUDGE MILLER: Well, insofar as this contains infor-
13 mation regarding monetary damages, which is what the statute
14 of limitations goes back to, I have no problem with your
15 argument. But, as far as I'm concerned, this is relevant to
16 the issue of between 1985 and 1988 period and I'll receive it
17 subject to that caveat.

18 (Whereupon, the document marked
19 for identification as TMC Ex-
20 hibit No. 16 was received into
21 evidence subject to the Judge's
22 rulings made hereto.)

23 JUDGE MILLER: Okay. Next.

24 MR. WAYS DORF: Next is a two-page document I'd like
25 identified as TMC Exhibit 17. This is identified as IEC

1 Routing Policy, April 30, 1987. It is discussed and sponsored
2 in Mr. Bader's and Mr. Ritchey's testimony. It was submitted
3 by Pac Bell through TMC in, in discovery about a month ago.
4 It is -- at the bottom among the, apparently, signatories are
5 Mr. Cox and Mr. Bandler, who are -- who have been called as
6 adverse witnesses.

7 JUDGE MILLER: So, we have Bandler, Cox, Bader,
8 Ritchey. Right?

9 MR. WAYSDORF: Right.

10 JUDGE MILLER: And any of these people are fair game
11 to have, have this -- discuss it with them. And on page 2,
12 how about H. A. Stolz?

13 MR. WAYSDORF: Yes. He is one of the people who are
14 listed as having approved the policy.

15 JUDGE MILLER: All right. With that -- with those
16 indications of people that have firsthand knowledge of this
17 exhibit, I will first identify it as the IEC Routing Policy
18 dated April 30, 1987, two pages, as TMC Exhibit No. 17.

19 (Whereupon, the document
20 referred to as TMC Exhibit
21 No. 17 was marked for
22 identification.)

23 JUDGE MILLER: You offer it in evidence?

24 MR. WAYSDORF: Yes, sir. We do.

25 JUDGE MILLER: Ms. Woolf?

1 MS. WOOLF: No objection.

2 JUDGE MILLER: TMC Exhibit 17 is received.

3 (Whereupon, the document marked
4 for identification as TMC
5 Exhibit No. 17 was received into
6 evidence.)

7 MR. WAYS DORF: Next, I'd like marked for identifi-
8 cation as TMC Exhibit 18 a one-page --

9 MR. HELEIN: It's two pages.

10 MR. WAYS DORF: Excuse me. I'm -- well, a two-page
11 exhibit entitled NEC Technology Planning. This is a memoran-
12 dum signed by Mr. Ken-- Kennard Lucky, K. R. Lucky, of Pac
13 Bell. It was submitted to TMC by Pac Bell in discovery in
14 1990 and Mr. Lucky has been called as an adverse witness --

15 JUDGE MILLER: Okay. The --

16 MR. WAYS DORF: -- by TMC.

17 JUDGE MILLER: -- two-page, two-page document you've
18 just described will be marked for identification as TMC Exhib-
19 it 18.

20 (Whereupon, the document
21 referred to as TMC Exhibit
22 No. 18 was marked for
23 identification.)

24 JUDGE MILLER: Objections -- you offer it in
25 evidence?

1 MR. WAYSDORF: Yes. I would like to offer it in
2 evidence.

3 JUDGE MILLER: Any objections, Ms. Woolf?

4 MS. WOOLF: Once again, I'd like to make a statute
5 of limitations objection under the Tel Evaluation as well as
6 the Aetna Life Insurance case, the statute of limitations bars
7 not only the remedy but also it's a jurisdictional bar to
8 entering -- to entertaining the action. And I believe that
9 matters prior to February of 1987 are therefore irrelevant.

10 JUDGE MILLER: All right. And, and my ruling is
11 that my -- the Designation -- the Hearing Designation Order
12 specifies 1985 to 1988 as being the revel -- relevant period,
13 and when, when the Designation Order says march, I march.
14 But, again, I may not award any damages for, for that time
15 period. I will -- have -- I'm going to wait to see how the --
16 all the evidence turns out. But I'll receive TMC Exhibit 18.
17 And you -- didn't have any other exhib-- objections?

18 MS. WOOLF: No other objections.

19 JUDGE MILLER: TMC Exhibit 18 is received subject to
20 the rulings I've made.

21 (Whereupon, the document marked
22 for identification as TMC
23 Exhibit No. 18 was received into
24 evidence subject to the Judge's
25 rulings made hereto.)

1 MR. WAYSDORF: Next, Your Honor, I'd like marked for
2 identification as TMC Exhibit 19 a one-page document which is
3 a Call Detail Recording Report generated by TMC's switch.
4 It's a, it's an example of something that Mr. Carrabis testi-
5 fies about in his testimony and is sponsored by Mr. Carrabis.

6 JUDGE MILLER: Okay. Mr. Carrabis, huh?

7 MR. WAYSDORF: Yes.

8 JUDGE MILLER: Okay. The document you just describ-
9 ed, one page, no declarations, will be marked for identifica-
10 tion as TMC Exhibit 19, Call Detail Recording Report, and the
11 sponsor will be Mr. Carrabis.

12 (Whereupon, the document
13 referred to as TMC Exhibit
14 No. 19 was marked for
15 identification.)

16 JUDGE MILLER: And do you offer that in evidence?

17 MR. WAYSDORF: Yes, sir. I do.

18 JUDGE MILLER: Ms. Woolf?

19 MS. WOOLF: I will object. This document is
20 evidently something that was prepared on 9/20/93 on the face
21 of it. This is evidently a switch record or something from
22 TMC that was just done a few weeks ago.

23 JUDGE MILLER: Well, where, where do you see
24 9/20/93?

25 MS. WOOLF: It's on both the -- on both of the en-

1 | tries that are on there. It's two lines from the bottom.

2 | JUDGE MILLER: 9/20/93. I see it.

3 | MS. WOOLF: And evident--

4 | JUDGE MILLER: At 10/14, 10/01 -- I guess, I guess
5 | 36 seconds.

6 | MS. WOOLF: Yes.

7 | JUDGE MILLER: 10/14 is 21 seconds.

8 | MS. WOOLF: Yes.

9 | JUDGE MILLER: All right. You object as this being
10 | on the -- beyond the scope of the 1985-1988 period, right?

11 | MS. WOOLF: Yes.

12 | MR. WAYSORF: Your Honor, this was submitted as an,
13 | as an example by Mr. Carrabis as the type of report generated
14 | by TMC's switch and he discusses then at some length in his
15 | testimony what he can determine from this report. It is not
16 | meant to prove the truth of the information in it, but just to
17 | show -- it's an example of something to show the type of
18 | information the switch can generate.

19 | JUDGE MILLER: Well, let me, let me place this query
20 | to you then, Mr. Waysdorf. Mr. Carrabis talks about a logging
21 | report that was discontinued in -- I don't know exactly.
22 | Maybe, maybe he didn't say when it was discontinued, but he
23 | said it was discontinued, we don't use that anymore. Now, do
24 | I have a guarantee that this was being used back in 1985
25 | through 1988? In other words, is the converse true? Do you

1 understand my question?

2 MR. WAYSDORF: Yes. I understand -- I believe I
3 understand your question. Well, I'm not sure I understand
4 your question. Let me back up.

5 JUDGE MILLER: All right.

6 MR. WAYSDORF: I'm not sure what we're trying to get
7 at. Mr. Carrabis is trying to demonstrate the kind of infor-
8 mation the switch can generate. I don't believe that any of
9 this remains from what may or may not have been generated
10 during 1985 to 1988.

11 JUDGE MILLER: Okay. Well, let me get my questions
12 clear for you. Back in his Exhibit 2, and Ms. Woolf just made
13 a reference to it not too long ago, about a Nancy Vogle had
14 been res-- the person who made up the log or handled the log,
15 handled -- and I had, I had originally had said hey, you know,
16 maybe it's Vogle we ought to have testify. And -- but along
17 with that is a statement that well, we don't use that trouble-
18 shooting method anymore. Now, all I want to, all I want to
19 know is if he -- you've got a 1993 form. All I want to know
20 is if you're using it as an example, were you, were you using
21 that approach in 1985 through 1988? That's --

22 MR. WAYSDORF: I, I believe what he's testifying
23 about, and I don't mean to characterize his testimony, but I
24 believe he's charac-- testifying about is that when he would
25 receive a comp-- a complaint from the trouble log, he could go

1 take a look at the switch, print something out from the
2 switch, and make a determination as to how long something --
3 or whether something ever made it to, to their switch, whether
4 a particular call ever made it to their switch. And he --
5 from my understanding, none of this has been retained. None
6 of the, the -- this underlying slips of paper or whatever,
7 printout, from that period was retained, but it's something
8 that he used on the spot to take a look and analyze what
9 happened to the call.

10 JUDGE MILLER: All right. I'm going to, I'm going
11 to -- the better part of me has been telling me to reject
12 this, and I'm going to reject it.

13 (Whereupon, the document marked
14 for identification as TMC
15 Exhibit No. 19 was rejected.)

16 MR. WAYSORF: Okay.

17 JUDGE MILLER: I don't think the, I don't think the
18 earth is going to fall in on us as a result of that ruling.
19 But --

20 MR. WAYSORF: Next, next, I'd like marked for
21 identification as TMC Exhibit 20 a 102-page document which is
22 the Consolidated Financial Statements of Clark-Bader, Inc.,
23 d/b/a TMC Long Distance, for 1986 through 1992. These are
24 referred to in turn in Mr. John Cheng's direct testimony,
25 which is TMC Exhibit 4, and I'd like that marked for identifi-